

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:08CR363
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
KIMBERLY N. WYNNE,)	
)	
Defendant.)	

The Court has received the Revised Presentence Investigation Report ("PSR") and the Defendant's objections thereto and motion for downward departure (Filing No. 27). According to the Addendum to the PSR, the government objected informally although it did not file objections. See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The parties object to the 4-level enhancement in ¶ 24 under U.S.S.G. § 2K2.1(b)(6) for possessing a firearm with the knowledge, intent, or reason to believe that the firearm would be used or possessed in connection with another felony offense. The parties' objections are granted.

The Defendant's motion for downward departure based on overstatement of criminal history and extraordinary family responsibilities will be heard at sentencing.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 27) are granted;
2. The government's objections (Addendum) are granted;

3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

5. Absent submission of the information required by paragraph 4 of this Order, my tentative findings may become final;

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

7. The Defendant's motion for downward departure (Filing No. 27) will be heard at sentencing.

DATED this 17th day of February, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge